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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission DOCKETED NOV 13 2009

COMMISSIONERS
KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF THE NOTICE OF PROPOSED RULEMAKING REGARDING ELECTRIC ENERGY EFFICIENCY RULES.

DOCKET NO. RE-00000C-09-0427

MORENCI WATER & ELECTRIC COMPANY'S COMMENTS

The Morenci Water & Electric Company ("MWE") hereby submits comments to the Draft Proposed Energy Efficiency Rules (the "Rules") submitted on October 30, 2009 in this Docket. While MWE understands the need to promote energy efficiency, and pledges to work with the Arizona Corporation Commission ("Commission") to implement feasible measures within its service territory, MWE has significant concerns about the rules and how those rules would apply to its unique circumstances. MWE believes the Rules should contain a exception provision that recognizes MWE's unique load profile and allows it to develop a DSM program that it could implement for its non-mining customers. In the alternative, the Rules should explicitly provide for a waiver if good cause is shown.

INTRODUCTION

MWE is a small utility in terms of number of customers. As of December 31, 2008, MWE had 2,284 total customers – 2,029 of which are residential customers. MWE does not have the typical load profile, because more than 98 percent of its load is mining load due to its sales to Freeport McMoRan Morenci, Inc. ("FMI Morenci") and Freeport McMoRan Safford, Inc ("FMI Safford"). The energy sold to the mines is primarily for crushing and conveying rock, pumping water and solutions, and electro-chemical processes. If not for the mining load, MWE would likely not qualify as a Class A utility and not be subject to the Rules.

Further, both FMI Morenci and FMI Safford already have every incentive to be as energy efficient as possible. Electricity represents a major cost input to mining operations. Consequently, the mining operations at FMI Morenci and FMI Safford make substantial efforts to manage energy demand in a manner that optimizes energy efficiency – including high efficiency motors, using best available technologies for operations, and load shifting where possible. These entities already purchase the most energy efficient equipment available in order to save costs. Indeed, if there was a way to reduce the energy consumption of mining operations by an additional 22%, FMI Morenci and FMI Safford would already have implemented it.

Further, the mining load has a very high load factor, and there is little ability to shift load. Therefore, MWE does not have the ability to develop a demand side management program that will result in any significant shifting of load to off-peak periods or further reducing energy use by FMI Morenci or FMI Safford for their respective mining operations.

Imposing energy efficiency standards on MWE's mining load would likely result in substantial increased costs to the mines MWE serves. Given the constant pressure on the mines to reduce electricity costs (in order to remain competitive in the copper market), imposing additional costs to meet standards likely not achievable and comply with the significant administrative requirements that may halt any expansion of mining operations within MWE's service territory. That could adversely impact the increased rural economic activity and the economic benefits associated with that activity (including jobs, increased tax base and ancillary economic activity tied to mining operations). In addition to the remote possibility that MWE could meet these standards, based on its unique load profile, MWE is concerned about the impact such rules as currently drafted to a rural area largely dependent on the mines for its economic prosperity.

SPECIFIC COMMENTS TO THE PROPOSED ENERGY EFFICIENCY RULES

MWE has specific comments and concerns about the Rules as detailed below:

R14-2-2401.18 – MWE believes that the definition of "Energy efficiency standard" as currently drafted will require MWE to achieve a reduction from 2005 sales levels. MWE simply cannot meet this standard given its unique load profile without stifling economic development within its service territory. For instance, in 2005, PD Safford used 0 kilowatt hours of energy, but will likely use approximately 250,000,000 kWh in 2009. MWE believes the rules as currently drafted would require MWE to reduce sales by the *entire* 250,000,000 kWh – and then some additional amount below 2005 levels. This is simply impossible – given that PD Safford will have to require some amount of power for its mining operations and given MWE's load profile. For these reasons, MWE would likely have to seek a waiver from the Rules.

R14-2-2401.24 – MWE believes an "Independent program administrator", if required, would impose substantial administrative costs on MWE with little, if any benefit.

R14-2-2401.34 – Essentially, FMI Morenci and FMI Safford have every incentive to pursue energy efficiency measures that reduce costs related to the mines served by MWE. Those customers are already "self-directing" their own energy efficiency measures. There is no need for MWE to collect funds from FMI Morenci and FMI Safford – only to return those funds directly back to them. This is because both have ample incentive (and the means) to pursue opportunities to reduce energy consumption and load through cost-effective energy efficiency measures – and they are already doing so.

R14-2-2404.A – MWE does not believe it can obtain a 22% reduction from 2005 retail sales by 2020 without imposing substantial increased costs on its customer base or greatly risking significant adverse impacts on economic activity within its service territory. For example, assuming 2005 retail electric sales to be 25,000,000 mega-watt hours (MWh) and assuming 3% growth a utility's 2020 electric energy sales would equal 39,949,185 MWh. The rule as currently written would require reduction to 19,500,000MWh – which would be the equivalent of a reduction of approximately 50% reduction. MWE simply cannot achieve that amount of reduction given its load profile[1].

R14-2-2404.C – Because both demand response and load management serve to smooth out the load profile of a utility, which provides significant cost savings to it and its customers, MWE

[1] Even if the Rules requirements are modified, it is highly unlikely that MWE will be able to achieve an overall reduction equal to 22% of 2005 retail electric sales (in kWh's) given its customer and load profile.

believes there should be no percentage limit on reductions in sales due to both demand response and load management.

R14-2-2404.E – The costs of any demand side management program or programs for MWE would be very significant and would likely not achieve the aggressive reductions required in the rules. MWE reiterates its concern about the impact to economic activity in its service territory if these rules were to be enforced against all of its load.

R14-2-2405, -2406, -2407 – MWE only has 2,284 total customers – which makes it a small utility. Further, it has a very small administrative staff and limited resources. Consequently, MWE lacks the staffing levels and expertise to provide much of the information required in these rules. To obtain that staff and expertise would result in substantial increased administrative costs that eventually would be incurred by the ratepayer. Further, MWE is unsure as to how much reduction could be achieved from its mining load (as described above) and from its non-mining load. Many customers in MWE's service territory are lower income customers and/or do not own their own property. Therefore, many of the demand side management programs other utilities have implemented would likely not be as effective for MWE.

R14-2-2409 – The Rules would impose significant reporting requirements on MWE, including a progress report and status report on top of filing annual implementation plans and providing additional information on customer bills twice a year. MWE has a small administrative staff with limited resources. To impose such requirements would be an extreme burden on MWE and result in substantially more administrative costs – not limited to the cost of upgrading its customer information system.

CONCLUSION

MWE understands Commission's desire to promote energy efficiency. MWE does not dispute the benefits that can be obtained by energy efficiency, including lower costs, less need for additional electricity infrastructure and environmental benefits. MWE is willing to work with the Commission to implement energy efficiency measures within its service territory that are feasible and do not impose unduly burdensome costs on it and its ratepayers. The Rules in this docket, however, would impose a substantial burden on an electric utility with a small administrative staff and limited resources. Further, MWE has a unique load profile that makes its ability to achieve the required targets all but impossible. Finally, the mining customers responsible for well over 98% of MWE's load have every incentive to implement any energy efficiency measures they can independent of any orders or rulemakings from the Commission. Indeed, if there was a way to reduce the energy consumption of mining operations by an additional 22%, FMI Morenci and FMI Safford would already have implemented it.

MWE believes that the Rules should contain a exception provision that recognizes MWE's unique customer and load profile and allows it to develop a DSM program that it could implement for its non-mining customers. In the alternative, the Rules should explicitly allow for a waiver if good cause is shown. MWE believes its unique situation would warrant a partial, if not a complete, waiver from the Rules.

RESPECTFULLY SUBMITTED this 13th day of November, 2009.

MORENCI WATER AND ELECTRIC COMPANY

By ______________________

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